

**Summary Notes from Public Meeting on Operator Qualification
Houston, Texas,
February 25 – 27, 2003**

Richard Sanders of TSI (representing OPS) opened the meeting (see slide presentation on the OQ Web Site) by introducing the panelists from the industry and the state and federal regulatory agencies. He also introduced the thirteen issues on which discussions at the meeting were to be focused. (Note, these issues were initially developed and documented by OPS based on comments received from industry representatives on the initial draft set of inspection protocols and frequently asked questions. They had been presented and initially discussed at the Public Meeting in San Antonio on January 20 & 21, 2003). Finally, Mr. Sanders described the path forward as including (a) completion of any needed revisions of the inspection support protocols by late March, (b) completion of the supplementary guidance during June, 2003, (c) completion of a computer-based training module for use in training State and Federal inspectors by August, 2003, and (d) development of a broad-scope national consensus standard on operator Qualification (OQ) by June, 2004.

The intent of the national consensus standard would be to document requirements for all aspects of OQ that may influence pipeline safety and integrity that are not included in existing standards. The standard would include requirements for qualification of people involved in construction activities that are excluded from the current rule.

Mr. Sanders noted that OPS is required by the recent pipeline safety law to complete inspection of all operators prior to December 17, 2005. Therefore, OPS intends to continue inspections of operators beginning in April of this year, and to begin to accelerate the pace of inspections during the summer of 2003. While the April to June inspections are full regulatory inspections, they will also be a trial run for testing and joint learning for both operators and OPS regarding the revised protocols and their enforcement.

Representing the pipeline industry perspective, Daron Moore (El Paso) stated that the industry is committed to effectively addressing the role of OQ in achieving pipeline safety. The next step in addressing this commitment is to discuss the thirteen issues in the current public meeting and to identify areas of agreement and disagreement. Industry expects that the major areas of disagreement will be those the industry believes are beyond the provisions of the rules. Some of these areas of disagreement may relate to issues that are considered important to pipeline safety by OPS. Where these areas that are beyond the provisions of the rule do not require a large commitment of resources to address, operators will incorporate provisions to address them in their OQ Programs. Where significant resource commitments are required and they are deemed to be safety related, industry indicated that requirements on the need to address these issues should be incorporated in a national consensus standard. In the future OPS can incorporate provisions from such a standard in a supplementary rulemaking.

Mr. Moore noted that industry views the protocols as “enforcement documents”. As such, industry will identify areas in the protocols that are outside the rules and seek to eliminate requirements that are not addressed in the rules. In conjunction with this, OPS has agreed to keep the applicable docket open for public comment through June 28, 2003.

The industry approach to moving forward with addressing OQ is as follows:

- Document and communicate its stance on the thirteen issues during the public meeting,
- Document its position on areas treated by the protocols that industry believes are beyond the provisions of the rules,
- Cooperate with regulatory inspections using protocols as guidance by responding to regulatory questions raised during inspections on any aspect of an operators OQ program, as long as enforcement actions are confined to prescriptive requirements of the rule,
- Support evolution of OQ requirements from systems and performance-oriented to much more prescriptive to clarify the height of the OQ “safety bar”,
- Support work on a broad-scope national consensus standard that includes how to address safety-significant issues related to personnel qualifications beyond the scope of the current OQ rule.

To support development of criteria on key parameters, such as reevaluation intervals, the industry has initiated work on a study to assemble and characterize existing regulatory requirements on reevaluation of people performing safety-significant tasks, including gathering and evaluating industry experience with performance under these requirements. This study is scheduled to be completed by approximately mid-March of this year.

In summary, industry is committed to address the safety significant aspects of OQ first by complying with prescriptive provisions of the rules and second by funding and developing a broad-scope national consensus standard on OQ with OPS and state participation. The top-level industry concerns expressed in the meeting introduction were:

- Regulators need to use protocols and supporting guidance to (a) identify areas of non-compliance with prescriptive provisions of the OQ Rules which will be subject to enforcement action, and (b) evaluate elements of operator programs that are not explicitly required by the rules only as a means to understand these programs, not as the basis for enforcement action;
- There is a need to clearly define the height of the “safety bar” so that operators can strive to attain the prescribed level of safety. Industry perceives regulatory use of the Notice of Areas of Recommended Improvement (NARI) – a new compliance tool – as having the potential for continuously raising the safety bar without the use of due process. (Note, OPS has described the role of the NARI as a compliance tool that is primarily designed to communicate with operators that their programs have not yet attained OPS’ expected level and to provide operators time to address existing gaps).

Following these introductory remarks, industry representatives presented their views on the thirteen issues that had been discussed by OPS and state regulators at the Public Meeting in San Antonio. These views are summarized in the position paper included on the OQ Web Site.

During the time for public comment, representatives from the Association for Diving Contractors, International described the difficulties their members are having addressing provisions of the OQ Rule. These difficulties mainly relate to the cost and complexity associated with responding to unique requirements of the more than one hundred operators that use their services. While the divers do not want to be subject to provisions of the OQ Rule, and cited an excellent safety record as evidence that current practices are working, they are moving forward with plans to develop bases upon which their members can be qualified involving less uncertainty about requirements. One such effort is the development and update of related consensus standards.

Tom Jones, a representative of an operator, expressed concern on several issues, including:

- Relating to the issue on additional covered tasks, if we are no longer going to rely exclusively on the four-part test as the basis for identifying covered tasks, what are the additional or overriding criteria? Operators need some clear and consistent basis for developing the covered task list. (The answer to this question was that we collectively need a basis in a rule for such an expansion, and the proposed national consensus standard should provide that basis.)
- Mr. Jones expressed his opinion that identifying reevaluation intervals for each covered task is an exercise in futility given the absence of task-by-task data on performance derived from various reevaluation intervals. (The response is that the ongoing study sponsored by industry should shed some light on the appropriate way to identify conservative reevaluation intervals. If and as appropriate, different intervals will be stipulated for different tasks).
- Use in the recent Pipeline Safety Law of the expression “training as appropriate” is very ambiguous and needs clarification. (Again, a national consensus standard should help provide input to a decision on the interpretation of “training as appropriate”).
- Existing work order systems at most operators do not record everything a person does in performing covered tasks. Expanding existing systems to incorporate this capability would represent an excessive burden with no commensurate benefit. (This issue is addressed in the regulatory response to industry comments that is included on the OQ Web Site.)
- Mr. Jones questioned the value, and reasonableness, of using near-misses as a source of Abnormal Operating Conditions (AOCs). (This issue is addressed in the regulatory response to industry comments that is included on the OQ Web Site.)

Frank Mantel, a contractor, discussed the difficulty contractors have in understanding and addressing the wide range of operator-imposed requirements for contractors to qualify their people. Presently contractors must address these varied requirements to continue to do business in the industry. He expressed the need for consistent guidance to contractors on how to qualify their people. (This issue is addressed in the regulatory response to industry comments that is included on the OQ Web Site.)

Michelle Snider of Exxon-Mobil asked about whether the states will consistently use the NARI, the newly identified compliance tool developed by OPS. Warren Miller of OPS noted that compliance and enforcement approaches are state-specific issues, and that while similar compliance tools exist at some states, no requirement will be imposed on states to use the NARI.

Ms. Snider also asked about the range of records needed to demonstrate to regulators that operators are in compliance with provisions of the rules. She expressed an interest in OPS developing a comprehensive listing of needed documentation for use by operators.

Rod Ewell and Jin Hunter, both representing contractors, expressed concern for the difficulty contractors have in understanding and demonstrating conformance with operator-imposed OQ requirements.

The remainder of the meeting focused on presentation of the regulatory reaction to the industry position on the thirteen issues and the industry response to that reaction. Both of these discussions are included on the OQ Web Site.

The meeting concluded with an industry presentation on how the protocols might be reorganized to increase their clarity (see OQ Web Site). Finally, Richard Sanders summarized the results from the meeting and noted that the next OQ Public Meeting will be held on March 25 (and possibly 26), 2003 in Phoenix. Details will be announced when they are available.